

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of: Francis Michael Walsh, et.al

Serial Number: 10/605,125 Group Art Unit: 3686

Filing Date: October 13, 200 F Examiner: John A. Pauls

Title: COMPUTER BASED CLINICAL LABORATORY ORDERING AND REPORTING SYSTEM WITH EMBEDDED CONSULTATION FUNCTION

Attorney Docket Number: 36497-3

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_____/Lisa E. Brown/_____
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APPELLANTS' REPLY BRIEF

The Examiner continues to maintain that Appellants' claims are properly rejected under 35 U.S.C. 101 as being "directed to or including within...[their].. scope a human being...". Appellants respectfully submit that what is not being claimed by Appellants is a human being, but rather a method or system which a human being employs to provide the claimed laboratory services. In essence, Appellants' claims are no more directed to a human being than a glove claimed to fit a human hand. This rejection has twice been addressed by Appellants.

Bladen, as has been argued twice before, has nothing to do with the claimed inventions. It seems that a keyword search evidencing the word "template" could identify Bladen, but only in the context of a risk-management scheme for generating assessment manuals. Bladen has nothing to do with a human medical laboratory consultant generating a consultative report based upon a template provided by a reporting-consulting subsystem. This rejection has twice been addressed by Appellants.

Regarding Atlas, Appellants' brief is replete with recitations of items not disclosed by this reference. In the interest of brevity, these recitations will not be restated here. The Examiner now asserts that Atlas includes a template for generating a consultative report, relying upon the notion that results are communicated over this web. The Examiner is, however, once again in error, because Atlas contains no such teaching, and the Examiner admits this, by insisting upon the incorporation of Bladen.

Regarding Ross, there is nothing to suggest that CPT codes are provided with invoices. This has been addressed previously by Appellants.

Regarding rejections based on Dworkin, Matsouka, Smith, and Edelson, in combination with Atlas and Bladen, the Examiner urges that the references are attacked piecemeal. However, Appellants note that each of these references is discussed in the context of their combination with other applied references, so the Examiner's contention is without merit.

Appellants respectfully renew their request that the Board reverse the Examiner and pass each of the Claims remaining in this case to issue.

CONCLUSION

If the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 06-1510.

Respectfully submitted,

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